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8 **UNITED STATES BANKRUPTCY COURT**

9 **DISTRICT OF NEVADA**

10 In re:

11 DANIEL GEORGE JOHN TARKANIAN and  
12 AMY MICHELLE TARKANIAN,  
13 Debtors.

Case No. BK-S- 13-20495-mkn  
Chapter 7

**OBJECTION TO  
CLAIMS OF EXEMPTION**

Hearing Date: March 26, 2014  
Hearing Time: 2:30 p.m.

15 William A. Leonard, the Chapter 7 Trustee (the "Trustee"), by and through his proposed  
16 counsel, Schwartzer & McPherson Law Firm, hereby objects to the following claims of exemption  
17 asserted by Debtors Daniel George John Tarkanian and Amy Michelle Tarkanian (the "Debtors"),  
18 in their Schedule C [Dkt. #12] attached as **Exhibit "1"** and identified as follows:

<i>Description of Property</i>	<i>Specific Law Providing Exemption</i>	<i>Value of Claimed Exemption</i>
JAMD, LLC (6.3% ownership)	NRS §21.090(1)(bb)	\$0.00
Tark, LLC (10% ownership)	NRS §21.090(1)(bb)	Unknown

22 JAMD, LLC, and Tark, LLC, are both organized as Nevada limited liability companies.  
23 The Nevada exemption statute cited by Debtors, NRS §21.090(1)(bb), only applies to stock in  
24 closely-held corporations and does not provide an exemption for ownership interests in limited  
25 liability companies.

26 This objection is made and based upon 11 U.S.C. §522, NRS §21.090, NRS §78.746,  
27 FRBP 4003(b), Local Rule 4003, the papers and pleadings filed herein, and the following points  
28 and authorities:

## **BACKGROUND FACTS**

1. Debtors Daniel George John Tarkanian and Amy Michelle Tarkanian (the “Debtors”) filed for relief pursuant to Chapter 7 of the Bankruptcy Code on December 19, 2013 (the “Petition Date”).

2. The Trustee has determined that the assets of the estate include the Debtors’ ownership in JAMD, LLC, and the Debtors’ ownership interest in Tark, LLC (collectively referred to as the “LLC Interests”).

3. JAMD, LLC, and Tark, LLC, are both organized as Nevada limited liability companies. The relevant reports from the Nevada Secretary of State are attached as **Exhibit “2”** and **Exhibit “3”** respectively.

4. Debtors have asserted in their Schedule C (**Exhibit “1”**) that the LLC Interests are exempt pursuant to NRS §21.090(1)(bb).

5. Based upon available information, the Trustee has concluded that the LLC Interests do not represent stock in closely-held corporations and therefore are not exempt pursuant NRS §21.090(1)(bb). Accordingly the Trustee requests entry of an order denying Debtors’ claimed exemption of the LLC Interests pursuant to NRS §21.090(1)(bb) and FRBP 4003(b).

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. Exemptions Available to Debtors**

Pursuant to 11 U.S.C. §541 of the Bankruptcy Code, all legal or equitable interests of a debtor in property as of the commencement of bankruptcy case are included in “property of estate,” whether the estate is being reorganized or liquidated. In re Anders, 151 B.R. 543 (Bkrcty.D.Nev.1993). The phrase “property of the estate” is broad enough to cover all kinds of property, including tangible or intangible causes of action and all other forms of property previously specified under Bankruptcy Act. In re Chappel, 189 B.R. 489 (9th Cir.BAP 1995).

Debtors are allowed to exempt certain property, but the exemptions found in Section 522(d) of Title 11 of the United States Code (the “Bankruptcy Code”) are not available to debtors in the state of Nevada because it has opted-out of the federal exemptions contained therein. *See* Nev.Rev.State. §29.010.3; *See also In re Kane*, 336 B.R. 477, 480 (Bankr.D.Nev.2006).

Debtors are therefore limited to those exemptions permitted under Nevada law, except in certain specified circumstances where the Bankruptcy Code expressly caps or otherwise limits such state law exemptions.

## **II. Exemption Pursuant to NRS §21.090(1)(bb) Does Not Apply to Interests in LLC's**

NRS §21.090(1)(bb) allows a debtor to exempt their interest in “[s]tock of a corporation described in subsection 2 of NRS §78.746 except as set forth in that section.” NRS §21.090(1)(bb)(emphasis added).

Subsection 2 of NRS §78.746 in turn states that it “applies only to a **corporation** that:”

- (1) Has fewer than 100 stockholders of record at any time.
- (2) Is not a publicly traded corporation or a subsidiary of a publicly traded corporation, either in whole or in part.
- (3) Is not a professional corporation as defined in NRS 89.020.

NRS §78.746(2)(a)(emphasis added).

This exemption does not exempt ownership in limited liability companies. NRS Chapter 78 applies to corporations in Nevada, but limited liability companies are addressed by NRS Chapter 86. Nevada’s exemption statute, NRS §21.090, contains a specific reference to stock of corporations described in NRS §78.746(2), but it does NOT provide a similar exemption for ownership interests in limited liability companies.

Nevada’s exemption statute was amended in 2007 to specifically reference the “charging order” benefits given for stock in closely-held corporations by NRS §78.746, but NRS §21.090 does not make any similar reference to the “charging order” benefits given for interests in limited liability companies (set forth at NRS §86.401). There is no comparable exemption for ownership interests in limited liability companies in Nevada.

Since NRS §21.090(1)(bb) does not provide an exemption for ownership interests in limited liability companies, there is no basis for the Debtors to claim their partial ownership interest in JAMD, LLC, or their partial ownership interest Tark, LLC, as exempt pursuant to NRS

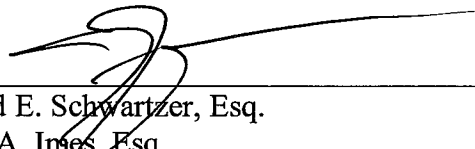
1 §21.090(1)(bb), so the claimed exemption of their ownership interests in these two entities must  
2 be denied.

3 **CONCLUSION**

4 Based upon the foregoing, the Trustee requests entry of an Order denying Debtors' claimed  
5 exemption of their ownership interest in JAMD, LLC, and Tark, LLC, pursuant to NRS  
6 §21.090(1)(bb).

7 If the Court concludes that an evidentiary hearing is appropriate to resolve the Trustee's  
8 objection, the Trustee respectfully requests that the Court set this matter for an evidentiary hearing  
9 so that the Trustee may conduct further discovery with respect to the Debtors' claimed exemption.

10 DATED: February 21, 2014

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# **EXHIBIT “1”**

B6C (Official Form 6C) (04/13)

In re **Danny George John Tarkanian**  
**Amy Michelle Tarkanian**

Case No. \_\_\_\_\_

Debtor(s)

### SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:  
(Check one box)

☒ Check if debtor claims a homestead exemption that exceeds \$155,675.\*

- ☐ 11 U.S.C. §522(b)(2)  
☒ 11 U.S.C. §522(b)(3)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
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#### Real Property

3008 Campbell Circle, Las Vegas, NV 89107	Nev. Rev. Stat. §§ 21.090(1)(l) and 115.050	202,000.00	450,000.00
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#### Household Goods and Furnishings

Miscellaneous Household Goods and Furnishings	Nev. Rev. Stat. § 21.090(1)(b)	10,000.00	10,000.00
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1 upright piano	Nev. Rev. Stat. § 21.090(1)(a)	250.00	250.00
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#### Books, Pictures and Other Art Objects; Collectibles

Miscellaneous children and adult books, no collectibles	Nev. Rev. Stat. § 21.090(1)(b)	100.00	100.00
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Family Pictures	Nev. Rev. Stat. § 21.090(1)(a)	50.00	50.00
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#### Wearing Apparel

Miscellaneous used wearing apparel for Husband, Wife, 4 children	Nev. Rev. Stat. § 21.090(1)(b)	500.00	500.00
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#### Furs and Jewelry

Wedding Rings	Nev. Rev. Stat. § 21.090(1)(a)	Unknown	Unknown
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Miscellaneous jewelry	Nev. Rev. Stat. § 21.090(1)(a)	3,000.00	3,000.00
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#### Firearms and Sports, Photographic and Other Hobby Equipment

Shotgun	Nev. Rev. Stat. § 21.090(1)(i)	200.00	200.00
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SIG P 32 gun	Nev. Rev. Stat. § 21.090(1)(i)	150.00	150.00
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#### Interests in Insurance Policies

American General Life Insurance Policy	Nev. Rev. Stat. § 21.090(1)(k)	430.00	430.00
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American General Life Insurance Policy	Nev. Rev. Stat. § 21.090(1)(k)	2,580.00	2,580.00
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\*Amount subject to adjustment on 4/01/16, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

Schedule of Property Claimed as Exempt consists of 2 total page(s)

B6C (Official Form 6C) (04/13) -- Cont

**SCHEDULE C - PROPERTY CLAIMED AS EXEMPT**

(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
<b><u>Interests in an Education IRA or under a Qualified State Tuition Plan</u></b>			
Childrens Interest in Education Fund, John Hancock Freedom 529	26 U.S.C. § 529	66,768.00	66,768.00
<b><u>Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans</u></b>			
Scottrade Roth IRA (Danny)	Nev. Rev. Stat. § 21.090(1)(r) 11 U.S.C. § 522(b)(3)(C)	78,478.06 78,478.06	78,478.06
Invesco Roth IRA	Nev. Rev. Stat. § 21.090(1)(r) 11 U.S.C. § 522(b)(3)(C)	46,113.94 46,113.94	46,113.94
Invesco Roth IRA	Nev. Rev. Stat. § 21.090(1)(r) 11 U.S.C. § 522(b)(3)(C)	45,628.14 45,628.14	45,628.14
Invesco SEP IRA	Nev. Rev. Stat. § 21.090(1)(r) 11 U.S.C. § 522(b)(3)(C)	220,989.78 220,989.78	220,989.78
American Fund IRA	Nev. Rev. Stat. § 21.090(1)(r) 11 U.S.C. § 522(b)(3)(C)	173,166.13 173,166.13	173,166.13
American Funds IRA	Nev. Rev. Stat. § 21.090(1)(r) 11 U.S.C. § 522(b)(3)(C)	9792.67 9792.67	9792.67
Scottrade Roth IRA (Amy)	Nev. Rev. Stat. § 21.090(1)(r) 11 U.S.C. § 522(b)(3)(C)	10,691.05 10,691.05	10,691.05
<b><u>Stock and Interests in Businesses</u></b>			
SITO stock- 5000 shares at Tarkanian Basketball Academy Office	Nev. Rev. Stat. § 21.090(1)(z)	Unknown	2000.00
JAMD, LLC (6.3% ownership)	Nev. Rev. Stat. § 21.090(1)(bb)	0.00	0.00
Tark, LLC (10% ownership)	Nev. Rev. Stat. § 21.090(1)(bb)	Unknown	Unknown
<b><u>Automobiles, Trucks, Trailers, and Other Vehicles</u></b>			
Odyssey Van	Nev. Rev. Stat. § 21.090(1)(f)	12,000.00	12,000.00
Total:		882,887.77	1,132,887.77

# **EXHIBIT “2”**



**J A M D LLC****Business Entity Information**

<b>Status:</b>	Active	<b>File Date:</b>	4/9/2007
<b>Type:</b>	Domestic Limited-Liability Company	<b>Entity Number:</b>	E0248572007-6
<b>Qualifying State:</b>	NV	<b>List of Officers Due:</b>	4/30/2014
<b>Managed By:</b>	Managers	<b>Expiration Date:</b>	
<b>NV Business ID:</b>	NV20071485456	<b>Business License Exp:</b>	4/30/2014

**Additional Information**

<b>Central Index Key:</b>	
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**Registered Agent Information**

<b>Name:</b>	DANNY TARKANIAN	<b>Address 1:</b>	3008 CAMPBELL CIR
<b>Address 2:</b>		<b>City:</b>	LAS VEGAS
<b>State:</b>	NV	<b>Zip Code:</b>	89107
<b>Phone:</b>		<b>Fax:</b>	
<b>Mailing Address 1:</b>		<b>Mailing Address 2:</b>	
<b>Mailing City:</b>		<b>Mailing State:</b>	
<b>Mailing Zip Code:</b>			
<b>Agent Type:</b>	Noncommercial Registered Agent		

**Financial Information**

<b>No Par Share Count:</b>	0	<b>Capital Amount:</b>	\$ 0
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**No stock records found for this company****Officers**☐ Include Inactive Officers

<b>Manager - DANNY TARKANIAN</b>			
<b>Address 1:</b>	3008 CAMPBELL CIRCLE	<b>Address 2:</b>	
<b>City:</b>	LAS VEGAS	<b>State:</b>	NV
<b>Zip Code:</b>	89107	<b>Country:</b>	USA
<b>Status:</b>	Active	<b>Email:</b>	

**Actions\Amendments**

<b>Action Type:</b>	Articles of Organization		
<b>Document Number:</b>	20070247288-40	<b># of Pages:</b>	4
<b>File Date:</b>	4/9/2007	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Miscellaneous		
<b>Document Number:</b>	20070247289-51	<b># of Pages:</b>	1
<b>File Date:</b>	4/9/2007	<b>Effective Date:</b>	

<b>NAME CONSENT - 04-09-07/TAG</b>			
<b>Action Type:</b>	Initial List		
<b>Document Number:</b>	20070250734-20	<b># of Pages:</b>	1
<b>File Date:</b>	4/10/2007	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20080119354-63	<b># of Pages:</b>	1
<b>File Date:</b>	2/21/2008	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20090203240-02	<b># of Pages:</b>	1
<b>File Date:</b>	2/27/2009	<b>Effective Date:</b>	
09/10			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	00002792136-20	<b># of Pages:</b>	1
<b>File Date:</b>	7/12/2010	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20110172789-08	<b># of Pages:</b>	1
<b>File Date:</b>	3/7/2011	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20120321039-23	<b># of Pages:</b>	1
<b>File Date:</b>	5/4/2012	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20130131776-31	<b># of Pages:</b>	1
<b>File Date:</b>	2/26/2013	<b>Effective Date:</b>	
(No notes for this action)			

**EXHIBIT “3”**

**TARK, LLC****Business Entity Information**

<b>Status:</b>	Revoked	<b>File Date:</b>	11/6/2003
<b>Type:</b>	Domestic Limited-Liability Company	<b>Entity Number:</b>	LLC17133-2003
<b>Qualifying State:</b>	NV	<b>List of Officers Due:</b>	11/30/2011
<b>Managed By:</b>	Managers	<b>Expiration Date:</b>	11/6/2503
<b>NV Business ID:</b>	NV20031173084	<b>Business License Exp:</b>	11/30/2011

**Registered Agent Information**

<b>Name:</b>	DANNY TARKANIAN	<b>Address 1:</b>	2905 JUSTICE LN
<b>Address 2:</b>		<b>City:</b>	LAS VEGAS
<b>State:</b>	NV	<b>Zip Code:</b>	89107
<b>Phone:</b>		<b>Fax:</b>	
<b>Mailing Address 1:</b>		<b>Mailing Address 2:</b>	
<b>Mailing City:</b>		<b>Mailing State:</b>	
<b>Mailing Zip Code:</b>			
<b>Agent Type:</b>	Noncommercial Registered Agent		

**Financial Information**

<b>No Par Share Count:</b>	0	<b>Capital Amount:</b>	\$ 0
<b>No stock records found for this company</b>			

**Officers**☐ Include Inactive Officers

<b>Manager - JERRY TARKANIAN</b>			
<b>Address 1:</b>	2905 JUSTICE LANE	<b>Address 2:</b>	
<b>City:</b>	LAS VEGAS	<b>State:</b>	NV
<b>Zip Code:</b>	89107	<b>Country:</b>	
<b>Status:</b>	Active	<b>Email:</b>	

**Actions\Amendments**

<b>Action Type:</b>	Articles of Organization		
<b>Document Number:</b>	LLC17133-2003-001	<b># of Pages:</b>	1
<b>File Date:</b>	11/6/2003	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Initial List		
<b>Document Number:</b>	LLC17133-2003-003	<b># of Pages:</b>	1
<b>File Date:</b>	12/4/2003	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	LLC17133-2003-002	<b># of Pages:</b>	1
<b>File Date:</b>	10/22/2004	<b>Effective Date:</b>	

<b>List of Officers for 2004 to 2005</b>			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20050521031-39	<b># of Pages:</b>	1
<b>File Date:</b>	10/31/2005	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20060599292-34	<b># of Pages:</b>	1
<b>File Date:</b>	9/18/2006	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20070705156-73	<b># of Pages:</b>	1
<b>File Date:</b>	10/16/2007	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20080713704-02	<b># of Pages:</b>	1
<b>File Date:</b>	10/27/2008	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20100032534-50	<b># of Pages:</b>	1
<b>File Date:</b>	1/7/2010	<b>Effective Date:</b>	
(No notes for this action)			
<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20110173841-78	<b># of Pages:</b>	1
<b>File Date:</b>	3/7/2011	<b>Effective Date:</b>	
11/12			